

### **REMARKS**

Claims 1-16, 19, 20, 22 and 23 are now currently pending in the present application. Claims 1, 13, 14, 16, and 19 have been amended to recite the appropriate sequence identification number, as discussed below. No new matter has been added by way of the present claim amendments.

#### **Election of Species Requirement**

In the outstanding Office Communication, the Examiner states that the reply filed on June 3, 2008 is not fully responsive to the prior Office Action because Applicants failed to elect a peptide listed in claims 8, 9, 10, 11 and 13. However, Applicants respectfully disagree.

The previous Office Action dated April 3, 2008, set forth a Restriction Requirement as between Group I—XXXV (claims 1-17); Group XXXVI (claim 19); and Group XXXVII (claims 19-21). In the response filed June 3, 2008, Applicants elected Group XXXVII. There was no election of species requirement associated with an election of Group XXXVII. Thus, Applicants did not make any election of a particular peptide.

However, if the Examiner wishes to make a new election of species requirement in light of the amendment of the claims, Applicants invite the Examiner to contact Applicants' representatives.

#### **Sequence Listing Requirement**

Enclosed herewith in full compliance with 37 C.F.R. §§1.821-1.825 is a Sequence Listing to be inserted into the specification as indicated above. The Sequence Listing in no way introduces new matter into the specification. Also submitted herewith in full compliance with 37 C.F.R. §§1.821-1.825 is an electronic CRF copy of the Sequence Listing. The electronic CRF copy of the

Sequence Listing, file “2008-09-12 4528-0124PUS2\_ST25.txt”, is identical to the paper copy, except that it lacks formatting. In no way does the paper copy nor the electronic CRF copy of the Sequence Listing introduce new matter into the application.

The specification is amended to properly identify each disclosed sequence with a corresponding sequence identification number (SEQ ID NO). These sequences have therefore been added to the enclosed Sequence Listing as SEQ ID NOS: 1 – 14. No new matter is introduced by these amendments.

Applicants respectfully submit that no extension of time fee should be associated with the present filing of a sequence listing, as no previous request for a sequence listing was made by the USPTO.

Application No.: 10/590,548

Docket No.: 4528-0124PUS2

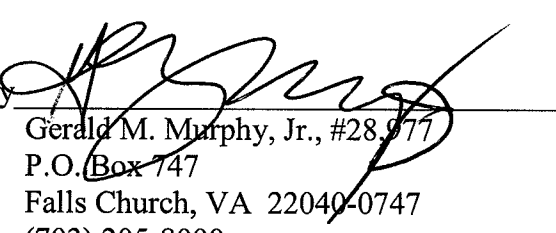
If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Dated: **SEP 18 2008**

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By

  
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4528-0124PUS2

**Attachments:**

Electronic CRF Copy of Sequence Listing  
Paper Copy of Sequence Listing  
Copy of Notification to Comply



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|  |             |                      |                                 |                             |
|--|-------------|----------------------|---------------------------------|-----------------------------|
| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.             | CONFIRMATION NO.            |
| 10/590,548   | 12/22/2006  | Anders Carlsson      | 4528-0124PUS2                   | 8478                        |
| 2292 7590 08/18/2008<br>BIRCH STEWART KOLASCH & BIRCH<br>PO BOX 747<br>FALLS CHURCH, VA 22040-0747 |             |                      | EXAMINER<br>DANG, IAN D         |                             |
|  |             |                      | ART UNIT<br>1647                | PAPER NUMBER                |
|  |             |                      | NOTIFICATION DATE<br>08/18/2008 | DELIVERY MODE<br>ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

DOCKETED  
Sequence listing  
& response  
9-18-08



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|  |                           |   |                                      |
|--|---------------------------|---|--------------------------------------|
| APPLICATION NO. /CONTROL NO.<br>10590548 | FILING DATE<br>12/22/2006 | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION<br>CARLSSON ET AL. | ATTORNEY DOCKET NO.<br>4528-0124PUS2 |
|--|---------------------------|---|--------------------------------------|

EXAMINER  
IAN DANG

|                  |                   |
|------------------|-------------------|
| ART UNIT<br>1647 | PAPER<br>20080811 |
|------------------|-------------------|

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents

The reply filed on 06/03/2008 is not fully responsive to the prior Office Action because: Applicant failed to elect a peptide listed in claims 8, 9, 10, 11, and 13. Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

In addition, this application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 C.F.R. § 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 C.F.R. §§ 1.821-1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures. **At page 4 of the specification, the peptides forming a complex with a galactolipid material at a peptide:galactolipid weight ratio of 1:10 to 1:27 have not been assigned any SEQ ID NO.** Applicant must comply with the requirements of the sequence rules (37 CFR 1.821 - 1.825) before the application can be examined under 35 U.S.C. §§ 131 and 132.

APPLICANT IS GIVEN ONE MONTH FROM THE DATE OF THIS LETTER WITHIN WHICH TO COMPLY WITH THE SEQUENCE RULES, 37 C.F.R.. §§ 1.821-1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 C.F.R. § 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 C.F.R. § 1.136. In no case may an applicant extend the period for response beyond the six month statutory period. Direct the response to the undersigned. Applicant is requested to return a copy of the attached Notice to Comply with the response.

The addresses below are effective 5 June 2004. Please direct all replies to the United States Patent and Trademark Office via one (1) of the following:

1. Electronically submitted through EFS-Web (<<http://www.uspto.gov/efc/efs/downloads/documents.htm>>, EFS Submission User Manual - ePAVE)
2. Mailed to:

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Alexandria, VA 22313 1450

3. Hand Carry, Federal Express, United Parcel Service or other delivery service to:  
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Randolph Building  
401 Dulaney Street  
Alexandria, VA 22314

Any inquiry concerning this communication should be directed to Ian Dang at telephone number (571)272-5014. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Manjunath Rao, can be reached on (571) 272-0939.

/Robert Landsman/  
Primary Examiner, Art Unit 1647

|                         |                                      |  |  |
|-------------------------|--------------------------------------|--|--|
| <b>Notice to Comply</b> | <b>Application No.</b><br>10/590,548 | <b>Applicant(s)</b><br>CARLSSON ET AL. |  |
|                         | <b>Examiner</b><br>IAN DANG          | <b>Art Unit</b><br>1647                |  |

**NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES**

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- ☒ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).
- ☒ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- ☒ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- ☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- ☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- ☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 C.F.R. 1.821(e). The correct SEQ ID NO:2 is present in the paper copy of the of the sequence listing only. Therefore a search of the correct sequence is not possible.
- ☒ 7. Other: **At page 4 of the specification, the peptides forming a complex with a galactolipid material at a peptide:galactolipid weight ratio of 1:10 to 1:27 have not been assigned any SEQ ID NO.**

**Applicant Must Provide:**

- ☒ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- ☒ An initial or substitute paper copy of the "Sequence Listing", **as well as an amendment specifically directing its entry into the application.**
- ☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216 or (703) 308-2923

For CRF Submission Help, call (703) 308-4212 or 308-2923

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